

UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION

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JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

Aug 18, 2008

FILED
CLERK'S OFFICE

**IN RE: TOSHIBA AMERICA HD DVD
MARKETING AND SALES PRACTICES
LITIGATION**

MDL No. 1956

TRANSFER ORDER

Before the entire Panel: Plaintiff in one District of New Jersey action has moved, pursuant to 28 U.S.C. § 1407, for coordinated or consolidated pretrial proceedings of this litigation in the District of New Jersey. Defendant Toshiba America Consumer Products, L.L.C. (Toshiba) supports the motion.

This litigation currently consists of four actions listed on Schedule A and pending in three districts, two actions in the District of New Jersey and one action each in the Southern District of Illinois and the Eastern District of Michigan.¹

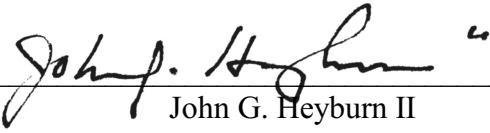
On the basis of the papers filed and hearing session held, we find that these actions involve common questions of fact, and that centralization under Section 1407 in the District of New Jersey will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. These actions allege overlapping nationwide class actions, each revolving around Toshiba's representations and conduct with respect to the viability of its HD DVD format. Centralization under Section 1407 will eliminate duplicative discovery; prevent inconsistent pretrial rulings, especially with respect to class certification; and conserve the resources of the parties, their counsel and the judiciary.

We are persuaded that the District of New Jersey is an appropriate transferee forum for this litigation. Toshiba's headquarters are located in New Jersey, and relevant discovery will likely be located there. Furthermore, this choice is supported by all parties.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, the actions listed on Schedule A and pending outside the District of New Jersey are transferred to the District of New Jersey and, with the consent of that court, assigned to the Honorable Dickinson R. Debevoise for coordinated or consolidated pretrial proceedings with the actions pending there and listed on Schedule A.

¹ The Panel has been notified that two other related actions have been filed, one action in the Central District of California and one action in District of Idaho. These actions will be treated as potential tag-along actions. *See* Rules 7.4 and 7.5, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001).

PANEL ON MULTIDISTRICT LITIGATION



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Robert L. Miller, Jr.
David R. Hansen

**IN RE: TOSHIBA AMERICA HD DVD
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SCHEDULE A

Southern District of Illinois

Bradley J. Kreisler v. Toshiba America Consumer Products, LLC, et al., C.A. No. 3:08-260

Eastern District of Michigan

Jack West, et al. v. Toshiba America Consumer Products, LLC, C.A. No. 2:08-10807

District of New Jersey

Mark Risi v. Toshiba America Consumer Products, LLC, et al., C.A. No. 2:08-939

Mitchell Kahl v. Toshiba Corp., et al., C.A. No. 2:08-1505